IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE P.SWAROOP REDDY

WRIT PETITION NO :2138 of 2007

Dated: 29th March 2007.

Between:

K.Prakash Rao, s/o Late Prakasham, Age: 50 years, Prohibition and Excise Inspector, Alamuru, East Godavari District.

..... PETITIONER

AND

The Government of Andhra Pradesh rep. By its Secretary, Revenue (Proh. & Excise) Department, Secretariat Buildings, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE P.SWAROOP REDDY

W.P.NO.2138 OF 2007

ORAL ORDER:

(per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the accompanying Writ Petition it is prayed that this Hon'ble Court may be pleased to issue an order or orders more particularly one in the NATURE OF WRIT OF MANDAMUS declaring the Impugned Proceedings of the 2nd Respondent in Proc. Cr.No.13459/04/CPE/L-1, dated: 6-6-2006 as illegal, arbitrary and consequently setaside the same, by holding and declaring that the Respondent No.3 being Junior to the petitioner, promoting him as Assistant Excise Superintendent ignoring the case of the petitioner is illegal and the petitioner is entitled for promotion as Assistant Excise Superintendent from the panel year 2002-2003 onwards and further promotion as Excise Superintendent and direct the Official Respondents to conduct the regular D.P.C for the panel years 2002-2003 onwards and consider the case of the petitioner for promotion as Assistant Excise Superintendent and Excise Superintendent, by taking into consideration the date of regularization of the petitioner as Excise Inspector w.e.f. 22-5-1989, by implementing the Rule of Reservation in promotions from the panel year 2002-2003 onwards, as Regular Departmental Promotional Committee (D.P.C) was not conducted for the panel years 2002-2003 onwards and further direct the Official Respondents

> to grant notional promotion to the petitioner as Assistant Excise Superintendent with all consequential benefits such as seniority, arrears of salary etc and pass such other order or orders as this Hon'ble Court may deem, fit, proper and necessary in the circumstances of the case."

As usual with the seniority list of any Department in the State of Andhra Pradesh, the seniority list in the cadre of Excise Inspectors is not yet settled. Both the State and the Members of the said cadre are equally responsible for this state of affairs. In the process, the petitioner, who belongs to a reserved category (S.C.) had earlier approached the Andhra Pradesh Administrative Tribunal by way of O.A.No.778 of 2004 claiming benefit under G.O.Ms.No.5, Social Welfare Department, dated 14-02-2003, where-under provision is made for reservation in favour of the various constitutionally protected classes in the matter of consideration for promotion to the next higher post of Assistant Excise Superintendent. The O.A., was disposed of by the Tribunal and the relevant portion is to the following effect:

> " In view of the above facts and circumstances of the case and in the interest of justice, the Respondents are directed to calculate the exact number of vacancies including those posts occupied by Incharge Assistant Prohibition and Excise Superintendents and consider the case of applicant along with others for promotion either for adhoc or regular

by placing the matter before the DPC and make promotions duly replacing the in-charge arrangements for the post of Assistant Excise Superintendents. The above exercise shall be completed within a period of six weeks from the date of receipt of a copy of this Order."

In the purported obedience of the said order, the 2nd respondent herein passed an order dated 06-06-2006 and the relevant portion of the same reads as follows:

" In accordance with the orders of the Hon'ble APAT, the case of the applicant has been placed before the Screening Committee for considering promotion to the post of Assistant prohibition and Excise Superintendent in Multi-Zone-I. The Screening Committee held on 6-5-2006 calculated the exact number of vacancies including those posts occupied by In-charge Assistant Prohibition and Excise Superintendents and consider the case of the applicant. The Screening Committee observed that the applicant belongs to Schedule Caste Community. The name of the applicant not come under Zone of consideration with reference to his seniority position. In view of the above orders of the Hon'ble Tribunal the Screening Committee considered the case of the applicant along with other Schedule Caste Candidates in the vacancies meant for Scheduled Castes but he could not come up for selection since there are eligible seniors to the applicant in the order of

seniority."

Challenging the same, the petitioner once again approached the Tribunal by way of O.A.No.5375 of 2006 and as he could not obtain any effective interim relief, he filed the present writ petition.

In view of the pendency of the O.A.No.5375 of 2006, we do not propose to make any comment on the order of the 2nd respondent dated 06-06-2006, but, in our view, the matter should not have been kept pending for a long time.

In the circumstances, we deem it appropriate to dispose of the writ petition directing the Tribunal to dispose of O.A.No.5375 of 2006 within a period of four weeks from today and until the Tribunal disposes of the said O.A., the respondents shall not undertake any further promotions and maintain status quo obtaining as on today insofar as the posts of Assistant Excise Superintendent are concerned.

Accordingly, with the above directions, the writ petition is disposed of.

J.Chelameswar, J

P.Swaroop Reddy, J

Note:
Isse copy of this order by tomorrow.
(bo)
mrk

29th March 2007